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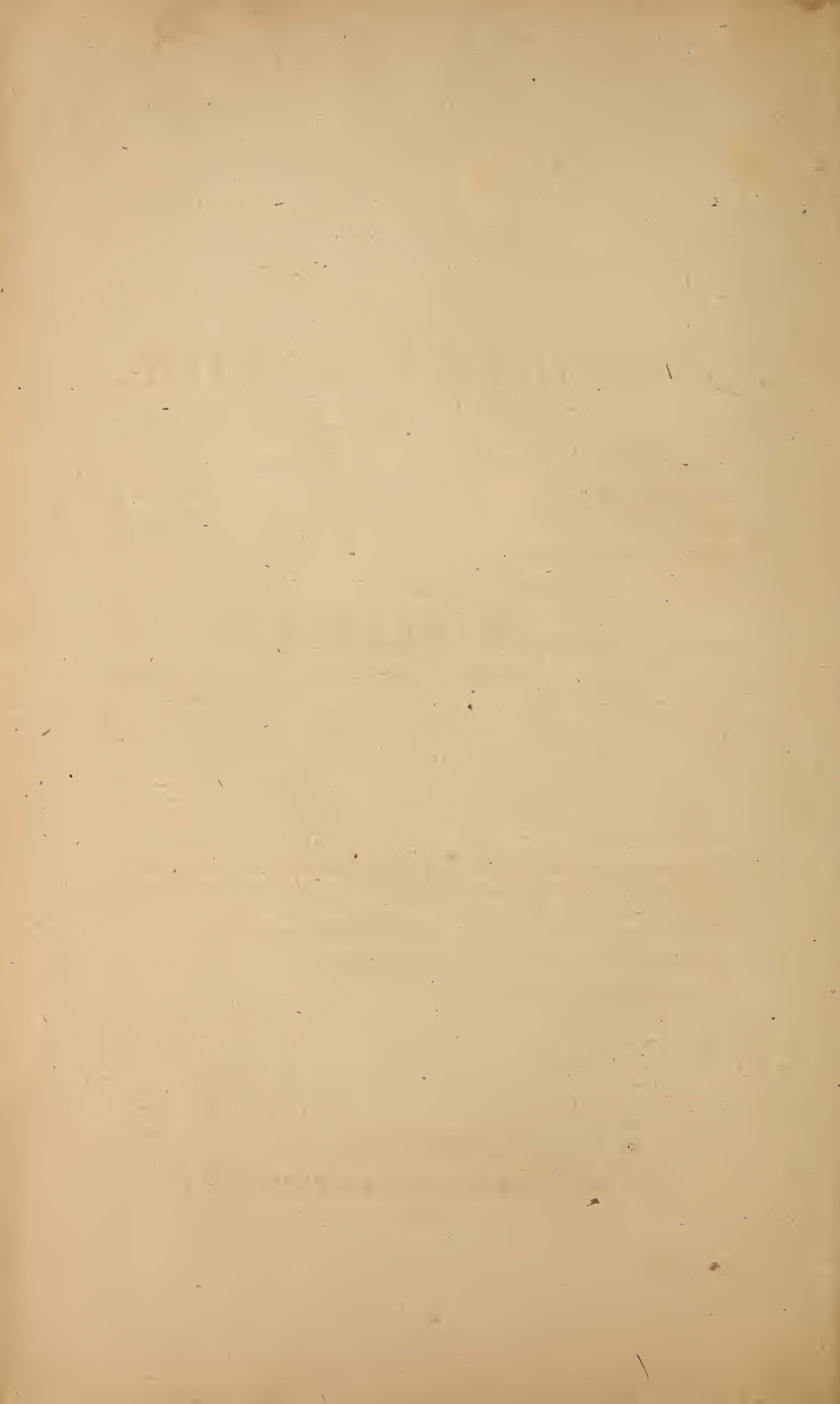
AMERICAN CONFLICT.

BY

A. W. CLASON.

"It is no matter whether the Sultan of Turkey robs a subject of his property, or whether, under the notion of equal rights, the property earned by one shall be taken from him by a majority."—WEBSTER.

NEW YORK;
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PREFACE.

THE opinions of a writer alone are the business of the public, therefore I should not have put my name to this pamphlet, had it not been tolerably sure of unpopularity, perhaps of odium. Whoever breasts current ideas, priest-led under the Bourbons in France, or parson-led under the Puritans in the United States, must expect neither fair play, nor quarter.

In France, where equality means—no man below the gentleman—not, no man above the blackguard, Armand Carrel felt that personal responsibility, if a risk, was also a defence. He said “The duel is my Procureur-Général,” and it was no unemployed advocate. Here there is neither personal risk nor judicial action, and yet, as in England, the profession of opinions under the popular ban is less common than in countries where the law punishes it. Men dread a verbal vengeance similar to that of the Yahoos upon Gulliver, so much more than the district attorney, or the duel.

It does not, as Mill has observed, require any great exercise of moral courage for a man, not dependent on the public for his bread and butter, to speak the faith that is in him, at the risk of being ill thought of and ill spoken of.

THE AMERICAN CONFLICT.

THE TWO COMPACTS.

MEN in a state of nature are free and equal ; but travel has never discovered, nor has history recorded, that condition. The nearer the approach to it, the more beastly and barbarous the race has been found.

When man occupies to his fellow-man the relation of one monkey to another, there can be only one law—the law of strength. Under that law the brute lives in terror. As man is physically less capable of safety than any other animal, fear, the torment of the brute creation, must be even a keener torture to him. The weak dread the waking of the strong, the strong dread the sleep which is the opportunity of the weak. An animal whose female nurses the offspring of successive births, is compelled to association. Men therefore band together into societies. Each society establishes its own rules, which thenceforth become to it, right and wrong, virtue and vice. It establishes a machinery to execute its will, which is called government. Government is a great step in human progress, no matter how bad it may be. The cruelty or caprice of the known few, is better than the caprice or cruelty of the unknown all.

Whatever may affect the existence of society has in every community been a crime. All other human actions have been differently viewed in different countries.

Everything most repugnant to European modern thought—child-murder, incest, polygamy, pederasty, and prostitution—have been indulged by the opinion, or sanctioned by the laws, of great and flourishing communities.

The lender of a wife would be an object of scorn to the lowest being in the United States ; but the pride of Cato, who

killed himself rather than stoop to Cæsar, saw only courtesy in such a complaisance.

Societies of men are called tribes or nations, according to numbers; but the law under which they all exist, is the same. It is termed the social compact.

Society, unless the social compact expressly excludes something, is omnipotent. It holds in its hands life and death, wealth and poverty, honor and degradation, pleasure and pain. No society ever existed which did not keep membership in the social compact within its own hands—none ever allowed an individual to claim it as dependent upon his will, nor permitted him to thrust himself within its pale uninvited. No society can ever exist long, of which the citizen does not feel his citizenship, a possession, a privilege, a security, and a glory.

The progress of mankind is economic. Science, art, and invention tend to cheapen the cost of life. Government, like everything human, is subject to this law.

As government represses human will, and as the means of repression are expensive, the less necessity it has of repression, the less it costs, and the more the subject has for himself. The great modern discovery in government, is, that many things may be safely exempted from the power of society, and the objects of government.

Men are now generally convinced that religious belief, and freedom of speech and of the press, at least against the action of government, ought to be exempt.

Liberty is, therefore, simply so much exemption of the individual from the omnipotence of society, as may be consistent with the safety of society.

The true liberal is one who claims that the exemptions may be increased.

Those exemptions, however, must be clearly expressed, for they are never implied.

In England, from which any community professing to love liberty, must derive its faith, those exemptions rest upon a deed actually existent, or the tradition of a deed. Sidney on the scaffold rejoiced in dying not for a new, but for "the good old cause."

English liberty is, and American liberty was, an intelligible thing which might be weighed, measured, and defined. Liber-

ty in the abstract, liberty not consisting of limitations, can no more be conceived of by the human mind, than space can be embraced by the human eye.

History shows that frequently smaller societies have agreed with each other to form an union; an admirable arrangement, which gives to each, all the advantages of a great state, and all the advantages of a small state.

The compact of union is known as the political compact. Its law is the converse of the law of the social compact; in the latter everything not excluded is included; in the former everything not included is excluded.

The reason is obvious. In a society, municipal law proceeds from omnipotence; it acts upon a perishing atom of the great mass. In an union all power arises from bargain; the parties to the bargain are few; and there is no intermediary, as in the social system, between an alleged law and an alleged offence. If a man is accused of murder, there is, or may be, a trial before unbiassed men drawn from a mass, each of whom is interested only that justice be done, and society itself is equally interested in justice. In a dispute between States, there are only parties, no tribunal and no interest in justice. Consequently the law of the two compacts must be different, the reasons for the law being different.

An Englishman, an Irishman, and a Scotchman are members of different social compacts, although members of a political compact; the relations between England, Ireland, and Scotland being fixed by acts of union.

A man in Massachusetts, and a man in New York, live under different social compacts, and under one political compact. The Frenchman lives under the social compact alone. Austria and Hungary were joined under a political compact. So were Denmark and the Duchies. The attempts by Austria and Denmark to compel men living with them under the political compact only, to live under the social compact, or to submit to a modification of the political compact, brought about wars.

The attempts of our Free States to exercise some of the powers of the social compact, under a political compact, brought about a great war. All such attempts must, and ought to produce wars. They are as much invasions for conquest, as the marching of armies by one independent state into another.

The history of the world does not exhibit more wanton perfidy to a political compact, than has been enforced by the Free States, but perfidy apparently meets with the favor of Heaven. From the time when Rachel and Jacob cheated Isaac and Esau, to the latest modern instance, it has been at least temporarily blessed. This truth was the puzzle of antiquity and is the despair of the infidel, but the Christian finds a consolation in the "inscrutable ways of Providence." To the Greeks, Jove was father of gods and men, king of heaven and of earth; but above Jove was the shadowy mysterious Fate.

The solution is very simple; the only check to the passions of men or communities is fear; when they are so strong as to be above fear, they are above honesty, and are perfidious through consciousness of strength.

The moment the reason for leaving the state of nature ceases to operate, man so far returns to the state of nature that strength is always right. Europe keeps two millions of men under arms to prevent the preponderance of any one state, knowing that it would then be insensible to justice, and intolerant of opposition.

BEFORE THE DECLARATION OF INDEPENDENCE.

A NEW continent having been discovered, European powers proceeded to partition it without regard to any rights of the natives. The colonies they planted followed the example of their parent states. Weak, they talked justice; strong, they practised injustice. Thirteen colonies (excluding Canada) had been planted by England, or had come under her sway; some were due to speculation, others to conscience too tender for the laws of the parent state. The speculators were tolerably merciful to the native; the godly, intolerably merciless.

The Pilgrim Fathers came from England because they could not have their own way. In their new settlements, they did to others precisely what, at home, they had not wished others to do to them. Whatever else may have changed in this world, the feelings and belief which came over in the *Mayflower* have not. Puritanism is the Hebraism of modern times, which gives to every community under its influence the cruelty and callousness of the Inquisition. States and men may be safely dealt with which call passion, passion; and interest, interest; but those that call passion and interest, God, can never make a compact which they will not cheat and glory in cheating.

Massasoit saved such a community from massacre, and fed its destitution. That colony rasped away the lands of his tribe, irritated it to war, exterminated its warriors, sold the wife and children of his son Philip into West Indian slavery, put the price into the public purse, and felt that God was served. Fortunately for the memory of the first settlers, the Indians wrote no books. True, if they had, they could have told the world nothing new, for there are no rights of red men, or of white men, that have ever been respected longer than danger checked encroachment.

Slavery was, originally, a concession to compassion, or a calculation of interest. A forfeited life was ransomed by servi-

tude. It was recognised for thousands of years by every power, and existed throughout the world, *jure gentium*. As a right of war, it has been exercised by both Old and New England within two hundred years. Negro slavery in America is due to philanthropy. Las Casas saw that his countrymen were working the Indians to extinction. He knew that it is idle to appeal from interest to humanity, so he suggested, the negro as the stouter beast of burthen. If the black had any claims as a man and a brother, Las Casas, with the usual myopia of philanthropy, could not discern them; or, if he did, must have concluded that the lower type of man ought to be sacrificed to the higher. Really, however, the negro passed from a harsher to a milder bondage. He benefited by a change from the abject slavery which history, to this very day, reveals as the common state of the negro, to one which has raised him far above the condition of those he left behind. He was in Africa a simple article of merchandise; as such, he was brought to America; as such, he was regarded by the public opinion of the world, and as such he was universally treated all over this Continent.

The slave-trade, as a new source of profit, was eagerly welcomed by all European powers. England, not two centuries ago, made an exclusive right to it one of the subjects of a treaty with Spain, and looked upon the acquisition as part of the trophies of a war. When the trade ceased to be of much value to her, she began to have a "conscience" about it.

Slavery was not only introduced into all the colonies, but slaves were absolutely forced into Virginia against her will. However, between robbing Indians and working negroes, all the colonies thrived and grew apace.

The manner in which the colonies had been founded; the carelessness, or ignorance which had dictated their boundaries; the relations of their inhabitants to proprietaries, to other colonies, and to the Crown, kept them alive to "rights" and to the duty of maintaining them.

A right is an acquisition, or an inheritance. There are no such things as natural rights, for in a state of nature, all men being equal, there can be no laws; and as rights are the result of law, consequently no rights. Rights cannot exist when there are only two conditions, strength and weakness.

Rights are the creations of society. Men are civilized just in proportion to the number of rights they enjoy ; and are noble just in proportion as they defend them.

Rights, my rights, your rights, that which I will not touch, that which you shall not touch, had been the mental food of the Colonists for years, and a better training for eminence cannot be conceived.

At that period every colony was a political body with a legislature, judiciary, and executive.

As government in its origin is the result of a compact, express or implied, the compact, even if expressed in writing with all the care man is capable of, and with all the clearness language is susceptible of, will be construed differently, the moment the interests or passions of men differ. If disputes are possible when the compact is carefully written, they are inevitable when meaning has to be worked out by logical deduction, from the precedents of the past. A dispute arose between England and her colonies; England asserted that the legislative authority of Parliament was equally supreme over her colonies, as over herself. The colonies denied it, claiming that their populations were subjects of the king, and they themselves communities in political connexion with England; that they were integral parts of an empire, not portions of the territory of a nation; or, in the familiar words of our modern politics, that the tie between them and England was federal, not national. The distinction was too nice to be discussed by any but profound lawyers, students of history, or thoroughly educated statesmen; but the results were palpable to the dullest intellect. If the claims of England were sustained, England legislated for men three thousand miles off, of whose necessities and feelings her legislators could not be adequately possessed. The government might be good, but it might be bad; and the colonists did not choose to depend upon chance. They fought their battle of debate upon no abstract grounds. They did not assert any new principle, they did not aver that in the "eternal fitness of things" England ought not to have such power; but that she did not, as a fact, have such power, that she was attempting to get what was not her own, and that in resisting her they were doing what a man does who defends his purse from a highwayman. The English argument

is nowhere better stated than in the "Taxation no Tyranny." The defect of that powerful pamphlet consists in its assumption, as a premise, of the point to be proved. If the colonists were members of a nation, not of an union, then all the consequences of that condition were correctly deduced by Johnson, for sovereignty resides in a nation; and, wisely or unwisely exercised, must be submitted to. If Massachusetts bore the same relation to England as Yorkshire, she was no more exempt from legislation than Yorkshire.

Some few men in the mother country, clearly comprehended and boldly stated, both the distinction and the right. Chatham not only defined in the House of Lords the political union between England and the Colonies, and traced the line of authority, but justified and applauded the Americans for a determination to resist encroachment on it. Horne Tooke was indicted for writing that the Americans killed at Lexington, were murdered. But the number of men who do not shrink from the logical results of their own opinions is always small; and the great mass of the opposition held that England was wrong, but that the colonies ought not to fight wrong. The miserable cant of cowardice, that two wrongs do not make a right, was a shelter, then, as since. It is due to the English people, to the ministers, and to the king, to admit that when a contest of arms became probable, they were willing to concede everything but the abstract doctrine of Parliamentary supremacy; and it is equally due to the colonial leaders to state that they would receive nothing less than an absolute surrender of it. The dissolution of the union between Great Britain and the colonies by their Declaration of Independence, and the maintenance of that act by successful war, followed.

It is much more than doubtful whether the States would not have been compelled to accept the English view of their relation to the mother country, had not France very early, secretly aided them morally and pecuniarily, and at a later period openly, with an army and a fleet. The gratification of will is dear to all men, but the masses soon tire of hunger, thirst, cold, heat, poverty, and military service. Upon the heroism of leaders all battle in its crisis depends. The letters of Washington show that patriotism ebbs as well as flows, and paint vividly how near to a collapse again and again, was the cause he championed.

FROM THE DECLARATION OF INDEPENDENCE TO PEACE.

THE Colonies sent delegates to a Congress, which directed their armed resistance to England, and on the 2d of July, 1776, debated and decided what John Adams termed "the greatest question ever debated in America; and a greater, perhaps, never was, or will be decided among men." That question was the unanimous declaration of the Colonies "that they were, and *of right* ought to be, free and independent States." Jefferson was the draughtsman of its language. As the men of that period well deserved the eulogy of Chatham, that history recorded none more temperate, wise, and firm, it is just to them to show that their famous Declaration contained no vague declamation irrelevant to the subject and satirical of its signers; but that it was a piece of close reasoning, with a clear premise and a logical conclusion. It does not declare any "rights of man," for there was no quarrel with England upon the rights of man; it deals with what it had to deal with, the rights of political bodies in an union. A congress of men specially commissioned by separate political organizations, specially forbidden to allow the internal system of their colonies to be discussed, every man of whom was probably a slaveholder, representing communities every one of which was slaveholding, publishing to the world a claim of the rights of man, would have been absurd. Their argument, good or bad, is clear. Men are created free and equal, they form into societies, and establish governments. When political communities are governmentally connected, and the connexion is made the means of injuring the interests of one community, it has the right to dissolve that connexion and stand alone. Every people for the purpose of possible liberty must be entitled to change its system of government. Any other statement of the argument is ridiculous. England claimed to exercise a right of sovereignty

which each colony claimed resided in itself. She proposed to maintain her rights by force; therefore each colony was driven to maintain its right by force. That had happened "in the course of human events" which compelled each colony to dissolve the political tie that bound it to the crown. Independence was not the desire of the colonists, but was the only means left of preserving, not of acquiring, liberty. A French Assembly engaged in subverting a system, which conferred hereditary privileges, and sprang either from a claim of divine delegation, or of conquest, might very plausibly announce "the rights of man" as a basis of action. France craved a change; the colonies yearned for the old condition which England strove to change. The king had no subjects, more anxious to remain his loyal subjects, than the men who in congress broke the tie, and in the field led armies against him. But their loyalty was the loyalty of men, not the docility of dogs. Loyalty is fidelity to engagements. So long as the king was faithful, they were faithful. When he was faithless, they held themselves absolved. They admitted no tie that was not reciprocal.

The earlier kings derived their office and power from God, and they held logically enough, that no abuse of that power absolved the subjects. That theory rolled with the head of the first Charles from the block.

It seemed about to challenge denial under his successors, but the timidity of James dropped it, with the great seal, into the Thames. Since that date, the English mind has received as an axiom, that government is based on compact, that the obligations of that compact are mutual, and that the violation by one, is the absolving of the other. Whenever that axiom is gravely drawn in question among men of English blood, and great interests are thereby affected, carnage is certain, and the contest will continue till a tyranny is established or the axiom is vindicated.

Men are only created once, they are born ever afterwards; in no system of society have they ever been born free; in all, they are born subject. From the moment of conception, society in civilized countries takes charge of the embryo, and guards its safety. When the human being is still a foetus, society gives it an existence in law, and vests it with rights of property,

exercising control before consciousness begins and after consciousness ends. If there is anything a man might be supposed to own, it is his life ; but no state in the civilized world admits that he owns even that. Nor are mankind born equal. A child born out of wedlock, is not born equal to the child of marriage. A female child is not born the equal of a male child. In nine-tenths of the States of the Union now, as in all of the colonies then, neither a negro nor an Indian is born equal to a white.

To suppose that a body of really great man, engaged in "the greatest debate," promulgated a falsehood, known to their intelligence and proved by their daily experience to be a falsehood, as a ground for a great war, and as a claim upon the favor of the world, would be to suppose them fools, and the rest of mankind fools also. They would have been the worst of hypocrites, and so the world would have regarded them ; but they understood themselves, and the world understood them. The fools were born later. Men who believe that the Declaration of Independence asserts a continuous freedom and equality of man, when its signers founded numerous governments which not only recognised slavery, but permitted the slave trade, are beyond argument. It is no wonder that such men should add to their claim of "inalienable rights of life, liberty, and the pursuit of happiness" for themselves, the inalienable right of deciding on those rights for others.

Just before the close of the war, all the States were united under the Articles of Confederation hesitatingly and grudgingly signed, so jealous were they of that independence they were trying to wring from England.

Under those articles of Confederation a treaty of peace was signed with Great Britain, in which the separate independence of each State is acknowledged, but in the eye of our law, the autonomy of a state dates from its own assertion, not from the admission of England. If the common understanding of men can be sought in so solemn an instrument as such a treaty, we find that all the parties to it, treated negro slaves solely as property.

FROM THE CONFEDERATION TO THE CONSTITUTION.

ALTHOUGH the Articles of Confederation not only provided for perpetuity, and guarded against alteration, except by unanimous consent, a convention to change the system assembled, in spite of the refusal of Rhode Island to sit in that body. If the doctrine of the Declaration were the public law of the States, their action was natural and proper; if not, that little State might justly complain of perfidy.

The debates in that convention have fortunately been preserved. They are the most valuable political work published in the New World, and would have been in the hands of all, "familiar as household words," had not the Federal authority, stepping from its sphere, to the functions of an almoner, or the trade of a bookseller, consigned them to the obscurity of government publications. Nothing in those debates strikes the reader so forcibly, as the absence of the sentimental and the abstract.

A jockey trading a horse, an usurer negotiating a loan, a second settling the terms of a duel, could not be more watchful and jealous of advantages, than were the delegates of the several States, arranging their new bargain. The interests of large States and of small States, of agricultural States and of commercial States, but more particularly of States which climate would keep permanently slave, and States which climate would keep only temporarily slave, were discussed in open convention, and settled in secret committees. As was natural, the States where slavery was, or would be unprofitable, had a "conscience" about it, and claimed to be paid not merely for the material advantages they would bring to an union, but for the wear and tear of that commodity, which is so profitable if held at a price, and so expensive if not.

In that convention were some, anxious to fuse the States into one State, to make one people out of many, a consumma-

tion perhaps eminently desirable, but, as the course of debate showed, utterly impracticable. No State was willing to abandon its autonomy, and depend for its welfare upon the wisdom of other States. At the head of those theorists was Hamilton, an immigrant from the West Indies, of remarkable ability as a writer, a politician, and a statesman, but without that association and habit of thought which enable a man born and brought up in a community to understand and feel with it. Settled in New York, he was not a New Yorker; New York was not his country, it was his "oyster." He could not comprehend "that each State, like each individual, has its peculiar habits, usages, and manners, which constitute its happiness, over which it would not do to give others power."

He could not feel "that from the general government he expected national security, but that was all; that he turned to his State for happiness, as a child to the bosom of its mother." *

The most patient hearing was given to the advocates of fusion. The more it was discussed, the more plain was it that all the States knew the meaning of Liberty, and that they did not intend to delegate one iota of power, not indispensable for security against the outside world, and equality between themselves. The conviction of the Convention was expressed by passing without dissent, a resolution that, wherever the word "national" occurred in the outline of the plan as characterizing any branch of the government, it should be stricken out.

Slavery had been incidentally before the Congress that declared Independence, in connexion with taxation. John Adams, who was ready to die for the rights of a colony, seems to have been very careless of "the rights of man." "As to names," said he, "it is of no consequence by what name you call your people, whether by that of freemen, or slaves. In some countries the laboring poor were called freemen, in others they were called slaves; but that the difference as to the state, was imaginary only. What matters it whether a landlord employing ten laborers on his farm, gives annually as much

* ELLSWORTH.

money as will buy them the necessities of life, or gives those necessities at short hand. The condition of the laboring poor in most countries, that of the fishermen more particularly in the Northern States, was abject as that of slaves."

It was not wonderful that a taxation rate of three for five was adopted.

Slavery necessarily came before the constitutional convention both as a matter of revenue, and of power.

If the slave population could be excluded from representation, the power of the Free States would be the greater; if it could not be excluded, then by cutting off the Slave-trade, one means of increase would be prevented, and the same result be attained; if neither could be secured, then, "the commercial sagacity of the Northern and Middle States could not," as Massachusetts observed, "fail to be struck by the exemption of slaves from duty, while every other import was subject to it." The Slave States offered to take the three for five basis of representation and taxation, to allow Federal legislation upon the Slave trade after twenty years, and to satisfy the "commercial sagacity" of the Northern and Middle States by an import duty upon slaves. In return, they got the agreement to deliver up slaves. The interest bargains of the Constitution were made by the extreme Southern and the Eastern States. The Slave States supposed that they had secured their slave-interest, and had the right to suppose so. They little knew how convenient a God Eastern men worship.

If there be one truth in our history more certain than another, it is that the framers of the Constitution, as public men, cared no more for the future of the negro, than a merchant for the fate of the rats in a ship which he sends on a venture. The Senate of Sparta was not more callous towards the Helots. No human being viewed the slave population as party to those social compacts which made the separate States. The slaves had brought no rights from Africa; rights had never been given to them, and they had earned none, for the King's troops always found warm welcome and assistance from them.

There was no omission upon this matter; no accident; no more trace, from beginning to end, of any notion of admitting the negro into citizenship than of admitting the Indian. Perhaps no more striking instance of the difference felt between

the two races by both Americans and Englishmen, can be found than that, in all the debates, speeches, letters, and expressions, before and during the War of Independence, whenever the word slavery is applied by white men to white men, it means political subjection. When Warren or Adams told his fellow-citizens that if they did not resist the British claims, they would be slaves, and that death was sweet and glorious in defence of liberty—there stood in the listening crowd, dusky men, women, and children, who might be flogged and sold, and were habitually flogged and sold by the very enthusiasts he addressed.

The joint organic acts of the States express this consciousness of difference, and probably every court of every State has judicially decided that the Constitution recognised slavery, and that the Union was as much instituted to protect it as any other interest.

The Constitution having been framed, was sent to the several States for acceptance or rejection. What the Constitution was in the opinion of the Convention itself, may be seen from the letter which that body sent with it to the Congress.

It asserts that “in the Federal government of these States it is obviously impracticable to secure all the rights of independent sovereignty to each, and yet provide for the interest and safety of all.” “It assumes that the power of making war, peace, and treaties, of levying money and regulating commerce, with the correspondent executive and judicial functions,” should be vested in the Union, and that the plan proposed had effected those objects.

It assumes that it was to be submitted to States and to States alone; neither Washington, who as President of the Convention signed it, nor his associates, having attained the modern acuteness of distinction which finds a difference between the people of the State of New York and the State of New York.

A great orator* once intended to honor, but bitterly satirised the intelligence and honesty of the Free States, by averring that their masses never read into the Constitution beyond the two first lines of the preamble.

This was bad enough; but if they read those two lines as he asserted they did, they read them wrong, and understood “We the People” as We the individuals making a People, instead of

* Wendell Phillips

We the People of separate States making a Union. At the time it was promulgated every man understood that it meant, We the People of the State of New York, of the State of New Jersey, &c. So it was originally drawn; but as the Constitution was to become a government between the first nine States that ratified it, as it was more than doubtful whether the Thirteen would ratify it, and as, of the Thirteen, it could not be guessed which nine would first ratify it, enumeration was impossible, and the WE was alone left to mark the action of each separate people. The men who lived in 1787 did not conceive that a people could be a people and not a people, an entity and not an entity, an unit and part of an unit. When they asked the people of the State of New York to put a portion of admitted sovereignty into a common fund, if the people of eight other States would each put an equal share of sovereignty into a common fund, they did not dream that the people of each State ceased to be a people, nor that such a thing existed as a people of the United States. If there had been, they knew that the majority of citizens could rightfully have altered their form of government. In all the American States, a majority of the citizens rules, which is the meaning of "just government founded on the consent of the governed." But the Constitution of the United States does not establish a democracy, nor was addressed to a democracy, nor was submitted to a people, but to thirteen distinct political organizations, each of which was constituted a people under the social compact. When a constitution is submitted to a people, the action on it of citizens is reciprocally binding, but the action of a man in New Jersey upon the acceptance or the rejection of the Constitution did not bind a man in New York. So far from numbers being consulted, five States, with less than one-third of the population of all, could have defeated it.

Even in the nullification debate, the adviser and mouth-piece of Jackson, Edward Livingston, admitted "that the preamble proves no more than the fact that the people of the several States had been consulted and had given their consent to the instrument. To give these words any other construction would be to make them an assertion directly contrary to the fact. We know, and it has never been imagined or asserted, that the people of the United States collectively, as a whole people, gave

their assent or were consulted in that capacity. The people of each State were consulted to know whether that State would form a part of the United States under the articles of the Constitution, and they gave their assent simply as citizens of that State."

Mr. Livingston used the words "whole people." Webster said, "we are one people for some purposes, but surely not for all;" and neither of those great men seemed to have reflected upon the danger of careless definitions. They knew that a people can never be less than a whole people, and that it is as impossible to be a people for some purposes and not for all, as for God not to be a whole God, or to be God for some purposes and not for others.

The language of the Constitution in every case shows that it is a compact of several States, not a compact of individuals.

"The legislative power is vested in a Congress of the United States, which shall consist, &c."

"The House of Representatives shall be composed of members chosen every second year, by the people of the several States.

"Representatives and direct taxes shall be apportioned among the several States which may be included within this Union.

"The President shall from time to time give to Congress information of the state of the Union.

"New States may be admitted by the Congress into this Union.

"The United States shall guarantee to every State in this Union, &c.

"The ratification by the Conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same."

The population of the various States differed widely. Three of them, Massachusetts, Pennsylvania, and Virginia, had nearly as many inhabitants as the remaining ten. They were consequently anxious for the rule of numbers, as they were sure of safety, with many chances for power. The smaller States were very willing to be governed upon certain subjects of common interest, but upon no others. They knew, as John Adams tersely expressed it, "that Reason, Justice and Equity

never had weight enough on earth to govern the councils of men. It is interest alone which does it, and it is interest alone which can be trusted." Therefore they agreed to a scheme in which only common interests were to be the objects of government, for there were few men in any State fools enough to believe that any human being ever existed, capable of being safely trusted with unlimited power, either as a king or as a voter.

The proposed new system was submitted to the States, but in spite of the great names and great men who recommended it, met with a powerful opposition. Men knew what Liberty meant in those days, and prized it as a part of their earthly possessions.

The Constitution would not have been adopted by five States had not the men, who in the Convention were Nationals, taken the proper designation of their opponents, Federals, and pledged themselves in every form of publicity to the assertion that the instrument was not capable of the construction which the jealousy of freedom suggested as possible. The "Federalist," principally written by Hamilton, a series of most ingenious, elegant, learned, and logical essays, shows conclusively what the system was understood to be by its advocates, and how it was recommended to human reason.

Hamilton sums up the objects of the Union, thus:—"The common defence of the members, the preservation of the public peace, the regulation of commerce with other nations and between the States, and the superintendence of intercourse, political and commercial, with other countries." This is the doctrine of Mr. Jefferson, and a safe domain of Federal politics, embracing only interests common to every State.

In perhaps the very ablest number of the "Federalist," Madison thus characterizes with precision and felicity, the proposed plan which he had, as largely as any man, contributed to frame: "The proposed Constitution is neither National nor Federal, but a composition of both. In its foundation it is Federal, not National; in the sources from which the ordinary powers of the government are drawn, it is partly Federal and partly National; in the operation of those powers it is National, not Federal; in the extent of them, again, it is Federal, not National; and finally, in the authoritative mode of introducing amendments, it is neither wholly Federal nor wholly National."

This is the very doctrine of Calhoun. The judiciary feature, which is wholly national, he had before alluded to in the same number, as being "essential to prevent an appeal to the sword and a dissolution of the compact." It never occurred to the minds of writers or voters of those days, that States and men could refuse to hold themselves bound by the decisions of that tribunal and yet denounce the inevitable dissolution of the compact thereupon, as unjustifiable, indeed wicked. Such a practical illustration of the wolf accusing the lamb of muddying the spring, has not happened since the days of Æsop.

In spite of the ability and patriotism of the advocates of the Constitution, men doubted, and it was only upon the faith of promised amendments, further "declaratory and restrictive," after the new government should have gone into effect, that the requisite majorities were obtained in the conventions. New York and Virginia, to prevent any possibility of misunderstanding, announced, through their ratifying conventions, that the powers granted might be resumed. If the other States did not show the same excess of caution, it was because they thought that the exercise of a principle twice within twelve years, prevented the possibility of its being drawn into doubt.

New York held, at that time, great men; and she held great men and honest men so long as she felt herself a State. When she began to delight in being a province, her public men became dwarfed and corrupt. When men feel a pride in their State, their honor and her honor are inseparable, and their service is a service of love; when their pride is in something else, they look upon her simply as a mart for trade, or as a goose to be plucked. Sparta will live for ever in the history of the world because of the intense feeling of the Spartan for his State. Athens gained her unequalled intellectual glory from the passionate Athenianism of her citizens. Rome became the mistress of the world because every Roman felt that he was a part of Rome. Massachusetts would not exercise the supremacy she now exercises in the Union, did not every one of her citizens feel that Massachusetts was "first, the rest nowhere" in his affections. Even those who hate the old Bay State must honor her. She may be very contemptuous of the rights of other States, but she is very jealous of her own. She never affected any sentimentalism where her own interest were concerned,

and in the Convention she honestly, almost cynically, observed that she did not care for a Union unless there was something to be gained by it. There was not only honesty but sense in the remark. A Union, to be worth anything, must be based upon the mutual interest of the States that compose it.

Intelligent selfishness is the only policy by which States can be well governed ; and when a State like New York becomes the fool of some "ism" which finds its way from Maine or Exeter Hall, she is the puppet of an enlightened selfishness which knows how to use her stupid strength for its profit.

With much difficulty and by much management, eleven States were brought to ratify the Constitution, which consequently became the government between them, and went into action, leaving two of the old thirteen, foreign States. If a people of the United States ever had existed, it is difficult to say what became of it. From the inception of the new government two principles and two policies have been in constant conflict. The principle of limited government, which is liberty, and the principle of unlimited government, which is despotism ; the policy of let alone, and the policy of meddle.

As the fundamental principle of the Union was strict limitation of government, which the American mind has always received as the true principle, it may seem singular that in this generation ten times more lives have been sacrificed, and ten times more money spent to overthrow, than were given in a former generation to establish it. The change in the organic law of the Union is due to the religious sentiment, without which, as Hume has rightly observed, great revolutions are rarely effected ; but with which, when applied to politics, any absurdity is possible.

FROM THE CONSTITUTION TO ITS OVERTHROW.

THE new system, embracing eleven States, moved easily into action with the greatest apparent desire on the part of all to give "the experiment of how much liberty men could bear, a fair trial,"* and with a President justly the elect of universal consent. The former aide-de-camp and trusted counsellor of Washington, Hamilton, was in his cabinet. That great man had no faith in the "experiment," and no hesitation in expressing his distrust. Doubtless with motives sincerely believed to be honest (for man is often the sharper of himself†), he undertook to make for the United States that better system which they had not the wisdom to choose for themselves, to "administration" the one they had chosen, so as "to effect a triumph over the State governments, reducing them to entire subordination, dividing the larger States into smaller districts," thus making the Constitution a manual of forms, not a compact of Union. With unbounded ingenuity and unwearied patience, he strove to make the Federal government a government of general, not of special powers, and to unloose limitation after limitation. History furnishes no greater master of state-craft. The vanity and self-will probably, the perspicacity possibly, of a President of his party (John Adams), not the wisdom of men, nor the ability of his opponents, defeated his exertions. Had Adams submitted to the superiority of his genius, the Constitution before twenty years would have been, practically, exactly that Constitution which Hamilton read in the Convention, and which had not even the honor of a debate. That a young man without fortune, without family, without even nativity, by the sole power of will and genius, should have compelled men "possessed with a fierce spirit of liberty, liberty according to English ideas and on English principles, liberty not abstract,

* WASHINGTON.

† *L'homme se pipe.*—MONTAIGNE.

and as such worthless, but inherent in a sensible object ”* (State and individual rights), to adopt under penalty of civil war a total alteration of the Constitution framed by the united wisdom of their greatest men, through the mere use of a governmental machinery intended to prevent such a result, is the most marvellous exhibition of political skill in modern times. In the light of recent events even the warmest believer in the power of men to govern themselves must very frequently have doubted his faith, and been overwhelmed with a temporary conviction that Hamilton was wiser in his generation when he asserted that men could only be governed through fear or corruption, for they could not govern themselves and must be governed. But circumstance favored the views of the Secretary. The United States were sectionally divided by a great interest as by a mountain ridge; the numerical majority was north of it; the Supreme Court was constituted principally of men who both in and out of the Convention had favored a less limited government; the tendency of the President’s mind was in that direction; and the money interests of the minority and majority sections were in opposition.

The passions which the course of the Secretary was developing, burst out upon the Assumption Bill. The House would do no business; the Eastern members threatened dissolution and secession. Hamilton in despair applied to Jefferson for aid, and though both agreed that “the dissolution of the Union would be most unfortunate, to avert which all partial and temporary evils should be yielded,” yet with a soldier as one of the speakers, a soldier as Secretary of War, and a soldier as President, it never seems to have occurred to any one that treason could be predicated of secession. So far from it, a distinguished Federal writes in 1793 to the Comptroller of the Treasury: “A war with Great Britain we at least of New England will not enter into; sooner would ninety-nine out of a hundred of our inhabitants separate from the Union.” The contest on the Assumption Bill was terminated by a compromise, one of those exchanges of Glaucus and Diomed of which our history is full.

As a part of his scheme, Hamilton sought to establish a national bank; that measure, in its opposition and advocacy

* Burke.

strictly sectional, was calculated to, and did add largely, to the power of its projector and the success of his designs. Many men in the Eastern States had strongly opposed the adoption of the Constitution, because as paper-money men, they read in that instrument only a coin currency. They perceived with delight that an elasticity could be imparted to the instrument of which they had not dreamed ; a means by which the masses might be plundered, not only without the consciousness of being plundered, but with eulogy to their robbers. Before two years the Secretary of the Treasury judged it safe to submit his famous report, which claimed for the Federal government the right of doing all that the general welfare demanded, and of determining what the general welfare did demand. The lines of party thereupon became clearly, sharply, indeed almost savagely drawn, the hostility extending to the Cabinet and even to social life. The dissension in the Cabinet gave Washington great pain. He strove honestly to be above party, but that is impossible. The weight of a President must be thrown on one side or the other, and the less a partisan he strives to be, the more effectually he is one. In his first term, Georgia having been brought before the Supreme Court as a defendant, at the suit of an individual, and the Court asserting jurisdiction, an amendment of the Constitution swept away both the authority and the suit. One of the judges of that high tribunal was pleased to observe in his decision that it was difficult to see why fifty thousand men in Delaware composing a State, should have any different consideration or relation than fifty thousand men in Philadelphia. The ability and purity of that judge (Jay) is undoubted. How he, a magistrate sitting under a Constitution which recognises and is based upon the very differences he deprecated, could feel a consistency with duty and honesty in an expression so revolutionary, indeed anarchical, is one of the wonders of the human mind.

There were already many elements of sectional discord ; the Eastern men felt that there was no genuine republicanism out of New England, and that there could be no government unless according to their ideas and managed by them. The undoubted faith, not only in a superiority, but in a monopoly of moral and intellectual worth, which is found in even the domestic correspondence of distinguished New Englanders of that period, is

almost irreconcilable with the admitted abilities of the writers and their claim of a desire for a Union. Outside their charmed circles all men are scoundrels who do not think with them. George Clinton, in New York, is as "vile" as Jefferson in Virginia.

The Quakers of Pennsylvania petitioned Congress upon the subject of Slavery. As the sect had been notorious during the war, in that State at least, as the foes of any independence but their own, and as fast friends of the Crown as a careful sense of selfishness would permit, more feeling was excited than otherwise would have been. Though the debate was warm, the sense of injustice to black men on one side, and to white men on the other, was expressed with a decorum unknown to later times. Congress resolved that Slavery in the States was out of its jurisdiction, but denied to citizens of the United States that privilege of supplying foreigners with slaves, which they found profitable at home.

The amendments to the Constitution were discussed and passed. They seemed useless, for they actually existed by exclusion already, but the fear that has since been justified, that power might be claimed on the ground that it was not forbidden, prompted the desire for them. Experience has shown that when men intend to trample on a Constitution, absence of power and denial of power are as weak double, as single. The bayonet passes through two thicknesses of paper as readily as through one.

Madison, in that debate, predicted that the dangers to the United States were not from any of the separate depositories of governmental functions, but from the community itself, from majorities tyrannising over minorities. He was aware how feeble a paper barrier is against such aggression. He feared from numbers, what Gouverneur Morris afterwards wrote of Legislatures :—

"But after all, what does it signify, that men should have a written Constitution containing unequivocal provisions and limitations. The legislative lion will not be tangled in the meshes of a logical net. It will always make the power it wishes, unless it be so organized as to contain within itself the sufficient check. Attempts to restrain it from outrage by other means will only make it more outrageous.

"The idea of binding Legislatures by oaths, is puerile. Having sworn to exercise the powers granted, according to their true intent and meaning, they will, when they desire, go further and avoid the shame, if not the guilt of perjury by showing the true intent to be, according to their comprehension, that which suits their purpose."

The duties on imports were discussed with a breadth of view and clearness of perception never surpassed in any legislative assembly. The average of duties was very small—under ten per cent.; the true rule, freedom of commerce, and the true exceptions, being carefully noted.

North Carolina and Rhode Island, having acceded to the Union, the sisters once more stood hand in hand. As the period of a Presidential election drew near, Washington, feeling or fearing decay, was anxious to retire to his plantation.

Jefferson pressed him to consent to a re-election. He urged a second candidacy upon the grounds, "that the division of sentiment and interest happened unfortunately to be geographical; that where northern and southern prejudices had come in conflict, the latter had been sacrificed, and the former soothed; that the owners of the debt were southern, and the holders northern; *that the very construction of the Constitution, of which when advocating its adoption before the people they had declared it unsusceptible*, was avowed by the Federalists; and that there was danger that the north and the south would not hang together, unless they had him to hang on."

As Washington was a tower of strength to the Federalists, that letter shows how highly Jefferson valued the Union, and how unselfishly and largely he was willing to sacrifice for it both pride of opinion and views of interest. He felt, however, that he ought not to remain in the Cabinet. Washington labored to reconcile his Secretaries, but upon learning from Jefferson that his antagonism to Hamilton was not personal, nor partisan, but fundamental, upon a principle involving the whole structure of our government, he ceased to urge a longer continuance in office.

Washington repelled with almost fierce anger the insinuation that his administration was tending to monarchy. If he meant hereditary monarchy after the European fashion he was right; if the exact meaning of the words, one-man power, representing

a majority, he was wrong. He could hardly have believed that within seventy years not only one man would dispose of the liberty and property of unoffending fellow-citizens, but that both would be subject to his subordinates, and the subordinates of subordinates, upon whom the Constitution and laws would be as the green withes upon Samson. And yet such was the inevitable result of the policy which admitted *individual* judgment and decision upon the propriety and wisdom of the provisions of that compact by which the several States had delegated so much of their sovereignty as they thought fit and safe to put out of their own keeping.

The founders of the United States were statesmen too thoroughly educated to believe that a system of mere majorities and minorities could ever be successful as the government of extensive regions. They knew that the mental vision has its range of perception as well as the physical vision; and that if every citizen of Massachusetts had the well balanced mind, great soul, and pure honesty of George Washington, it would not be capable of governing Virginia wisely or safely upon any subject on which the interests of Virginia were not identical with those of Massachusetts. They therefore provided a fund of power, a small circle of objects upon which majorities might exercise their discretion, subject only to praise or blame, and all else they forbade by every mode known to man, from the consideration or action of majorities. Whether the system was theoretically the best, they were not weak enough to discuss. It was the best practicable one for the States, and their citizens; it was made for them and suitable to them; it would not have worked in England, nor in France, nor in any other country on earth where the materials for the structure were not the same.

It was a product of the American mind for American purposes; as much the result of their mental training, local interests, and former systems, as the cotton-gin, the steamboat, and the reaper have since been of their material necessities. They made it for themselves, and their posterity, and such as they should choose to permit to share it.

They knew that their first duty was to themselves, and Morris expressed the general sense of all the communities, when he said in convention, "As to those philanthropic gentlemen, those

citizens of the world, as they called themselves, I do not wish to see any of them in our public counsels." The great leading Federalists must (perhaps honestly) have believed that some time or other the States would trench upon the allotted federal power, and they set to work immediately upon taking possession of the government, to disable them. They commenced war before they were warm in their seats, and thus provoked discontent; they then pointed to the discontent as the proof of their wisdom, in place of recognising in it the proof of their delusion.

Washington in 1792 writes to Hamilton that he has endeavored to ascertain in Virginia, "from *sensible, moderate men, friends* of the government, the sentiments that are entertained of public measures. They seem alarmed at that system of policy and those interpretations of the constitution which have taken place in Congress."

When sensible, moderate men, friends of the government, become alarmed at interpretations of the constitution, war is not far off. A man may put up with an administration of conceded power, however prejudicial or distasteful to him, because policy may be changed; but he can no more permit individuals in other States to pass upon his Constitutional rights, than to dispose of his relations to his wife. If he does, he is a slave. Such questions are reserved to courts, to conventions, or to the sword. All changes in the constitution are by the terms of that instrument to be made by States, by bodies politic, not by individuals.

The four millions of New York do not count federally for amendment more than the two hundred and fifty thousand of Rhode Island, or the one hundred and twenty-five thousand of Delaware. Therefore to place the power of construction in majorities, is simply to undermine the whole system of government.

One of the greatest philosophic statesmen who ever lived, observed from his review of the history of the world, that the greatest and most stable governments which had existed, contained a mixture of monarchy, oligarchy, and democracy. Such were the conclusions of our ancestors. They placed a large portion of monarchical power in a President; they kept a large portion of oligarchical power in the States, and gave a

large portion of democratic power to the individual. They provided against everything but bad faith. As that is not a calculable element, they could not guard against it. The leading liberals of the continent have not learned even from the prosperity of the United States under a very limited government, nor from a dozen abortive revolutions in Europe, subsequent to its rise, that liberty consists in limitations of governmental action, and that there is little gained by shifting absolute power from one set of men to another. Nor are the liberals of England much wiser than the others.

The politics of Washington's second term were largely affected by the hostility of one section to England, and of the other section to France. Of course, the interest of each was at the bottom of their respective feelings, but the nobler sentiment of gratitude had also some influence with the masses. At the close of Washington's second term an address was voted by the House, which not only recognised his vast services and expressed its warm gratitude, but regretted his retirement. To the regret, objections were made by some of those members who felt that the President's personal character protected men from censure whom they considered worthy of condemnation, and that it was not fitting that even the best of men should be made the pretext for a bad precedent. Among the few who had the courage of their convictions, was Andrew Jackson. John Adams succeeded, a brave, bold, vain man; a strong and original thinker, arbitrary by temperament, but a believer in limited government by intellect. In the history of parties, his administration will be remarkable for his final and sudden appreciation of the projects of Hamilton, and his rapid change of executive policy to disconcert and defeat them. In the history of the United States it will be chiefly known by the Alien and Sedition laws.

Those bills, which were debated at great length, and with great ability, compelled an examination of the structure of our government. If the federal authority had jurisdiction over such objects, it is impossible to say what jurisdiction it would not have. It could on such principles build opera-houses, and make eunuchs to sing in them. It would have, not certain delegated powers, but the powers of society. The broad distinction between a union with derivative power, and a union with

inherent power, was pointed out so lucidly that no man's intellect could gainsay, even if his will was not influenced. To meet the invasion of the reserved powers, Virginia and Kentucky passed their famous resolutions of '98, which fixed for all time, the creed of every man capable of an argument who believes that the Constitution establishes a limited government of specific powers.

Those resolutions asserted the right of one State to judge whether the Federal compact had been violated, and the measure and means of redress, in cases not susceptible of judicial determination.

No mind capable of a logical deduction can deny that they must contemplate secession as a reserved right. No mind capable of a logical deduction can deny that between secession and despotism there is only a choice. Secession is widely different from revolution. Through the latter, some men strive to govern others; through the former, some States strive not to be governed. Revolution claims to alter the political, perhaps the social compact. Secession claims that the political compact is being altered, and refuses to abide by the change. Revolution appeals from the past, secession appeals to the past. The spirit of Revolution is change; that of secession, stability. Either there is a right of judgment in a State, full and complete, or it has no right of judgment at all. If so, there are no State-rights, for that only is a right which executes itself. A man's house is his castle, not because he can bring an action of trespass for its invasion, but because he may lawfully kill an invader. A man's right to personal security need not invoke the power of society for defence; he may defend himself. A man is not bound to see his wife dishonored and look to the statute of rape; he may kill to prevent it. That which depends upon the will of another, is not a right, but a license. If the framers of the Constitution had intended to make public opinion, not Law, the ruling principle of the United States, could they not have said so? Can it be conceived by any sensible, moderate man, that they made a system "partly national and partly federal," and armed the first and disarmed the last; that they intended the rights of individuals and bodies politic to be the sport of elections; or, that having established a Supreme Court, they suspected that its decisions could be appealed from

to the ballot-box? Finally, did any human being ever dream of a fundamental law without a penalty for its violation or perversion, provided the violators were a majority? The Constitution is not merely a compact of government, it is also a treaty between the States as to other things. Upon the treaty portion exclusively, the federal government has no jurisdiction. If some of the States refuse to fulfil their treaty duties, does the treaty bind others?

Is not the inference from the unlicensed liberty of speech and the press, overwhelming in favor of secession? Do not communities which have pledged themselves to allow secession to be discussed, pledge themselves to the fullest freedom of action upon the debate? A system which allows the reason to be addressed, and punishes it for being convinced, adds treachery to the faults of other despotisms. If we turn to American precedents, we find two secessions in fourteen years. If we turn to authority, we find Washington, Jackson, John Quincy Adams, indeed all the Presidents, declaring that the true Union is the Union of the heart, not a Union through coercive power. We find Washington suggesting secession, and Quincy Adams admitting it. If we turn to the Free States, we find them adopting the ideas of men who for twenty years had been endeavoring to take them out of the Union, and elevating to power those who placed the individual above all power of bargain by his State. If we turn to essayists contemporaneous with the Constitution, we find Hamilton writing that "acts of the larger society not pursuant to its constitutional powers will be merely acts of usurpation, and will deserve to be treated as such." If we turn to the Constitutions of the various States, we find them all affirming the right of a people to change their system. If we turn to the jurists, we find the same decision. If we turn to such a calm philosophic reasoner as De Tocqueville, we find him without a doubt. Finally, if we turn to the Declaration of Independence, we find the colonies claiming that of "right they ought to be" independent; the right asserted being the right of a body politic to sever its connections with any other body politic. If Jefferson erred, he erred with a large company. He could not conceive of a paper plan separate from execution, of a just system without a self-contained check, of men temperate and moderate with no penalty

for, and no remedy against intemperance and violence. He knew that so long as the civil rights of each State were connected with the Union, she would so cling and grapple to it that no force under heaven could tear her from her allegiance; but that if the federal government was one thing and her rights another, and there was no mutual relation between the two, then the proper cement was gone, the cohesion was weakened, and there would only remain master States, and subject States.

In nearly such words Burke showed England how she could keep her colonies, and how she could lose them; but the great mass of the English could not conceive that a government was a government, unless it could be unjust and unreasonable, and compel obedience and submission.

Jefferson believed that the States and the citizens of them, must be made to feel that for self-will and despotism there must be an admitted remedy, or that communities and individuals would be self-willed and despotic.

Time has vindicated the wisdom of Burke; time will vindicate the wisdom of Jefferson. Taxation will convince those who rejected argument. It is perfectly certain that if the doctrine of secession had been generally received, there would have been no war, and more harmony. It is true that men would have been confined in their action against "sin" to their respective States, and that if ten of the States had chosen to have become Mahomedan, they might have declined to allow their harems to be visited, or their faith to be abused. The natural right of one man to poke his mental or physical nose anywhere, is counterbalanced by the natural right of another to pull it when its intrusion is offensive. The citizen of a federal union has only those rights against a fellow-citizen, which that fellow-citizen has agreed that he shall have, and every inference in a case of doubt is adverse to an extension of the right.

An indissoluble union is impossible as a matter of logic, and impracticable as a matter of fact, if any "rights" exist in States, for the two things are as self-contradictory as a round square.

So long as liberty was the passion of the citizen, there was

no danger in the doctrine of secession, for it was in perfect harmony with a sense of the value of the union, a veneration for and obedience to the Constitution, and a fraternal feeling between the citizens of the States ; but when the love of liberty left the heart, and the love of power took its place, secession became a heresy. When men wanted a union, it was as orthodox North as South ; when they wanted a nation, it became gothic and barbarous.

No man can object to secession who wants to be just ; no man can object to secession who means honorably to keep a contract ; no man can object to secession who believes in a limited government ; no man can object to secession who believes that men are not wise enough nor good enough to exercise unbridled will ; no man can object to secession until he can state some other self-contained check in the system, by which majorities may be kept within constitutional limits. No man can suggest any other mode by which a union can be preserved from becoming a unity, nor can any man suggest any other remedy against usurpation. The argument against it must rest on "the right divine to govern wrong," and must assert that no political or social system can exist without a supreme sovereign power, against which it must be criminal to contend, and impious to murmur.

That argument, however, justifies Charles I. and George III., and brands Hampden and Washington as lucky criminals.

It is a little remarkable to find all the arguments, illustrations, and feelings of the ministerial majority of Lord North reproduced so exactly word for word by a party in the United States, that only a slight change is necessary to make them identical, and to find that same line of argument pronounced metaphysical, hair-splitting and disloyal in New York to-day, which was pronounced sophistical, disloyal, and treasonable in London, ninety years ago.

Whether the United States should remain a limited government for a few years longer depended upon one man, John Adams. If he persisted in believing that France was hostile, and plunged into war, a Federalist administration would have used hostilities equally to subjugate their own opponents as to vanquish the common enemy. Brought about by party and sectional influences, war would necessarily have been used for

party and sectional purposes. Fortunately the President was satisfied that war was not demanded by the honor of the United States, and he would not make it for any other purpose. From that moment, he became the object of a hate even more bitter than that entertained by the Hamiltonians towards Jefferson; and the lukewarmness and intrigues of those who should, as partisans, have been his supporters, made the triumph of his opponent certain. The Federalists attempted to use the equality of votes between Jefferson and Burr to drive a bargain with the latter. There is not a particle of proof that Burr either invited or listened to their overtures; he did more, he publicly disclaimed any rivalry. But he could not escape the suspicion of his party, justly jealous of the use of the forms to abuse the spirit of the Constitution.

The Federalists continued a party until the close of the war of 1812; but though the organization was dissolved, their principle is eternal.

That principle was very simple, to alter the Constitution without the process it prescribes for amendment; in other words, to make it a mere majority government.

Man is so apt to fancy that it is permissible to do (what seems to him) a little wrong, to effect (what seems to him) a great right, that any human being, conscious of the infirmity of men, cannot judge them harshly. This is an error into which a man of great genius, is most likely to fall. It takes its fullest expression in "everything for the people, nothing by them"—which Napoleon was so fond of quoting. The trouble is that as it is the incarnation of despotism, it is certain, in the United States at least, to lead to bloody wars.

It characterises men of a religious turn of mind. When used as an argument for roasting a Protestant, Protestants see its absurdity; but it is very doubtful if it would seem quite as absurd to them if the roast were a Catholic or a Mormon.

The plan of the Federalists was as simple as their principle. It was to buy the majority section by the spoils of the minority section. If the minority section complained of injustice, that was a necessary incident of all government; if it insisted upon the bargain, who should say what the bargain was, if it appealed to the courts the majority section made the courts, and courts are as miserable trucklers to power, when they are de-

pendent, as any lackey that ever licked the boots of a king. If the minority section rose in arms, the strength was on the other side; God is always on the side of strength, and the prestige and possession of the government-machinery were with the oppressors. Such was the shrewd calculation; that it failed for the moment, was no fault of the calculators. The system of the United States presupposes honesty, that men and States will abide by the bargain in good faith, and not attempt to avoid it by indirection. The moment a man puts God, or his conscience, or humanity, or any other convenient name for self-will, between himself and the performance of a bargain, he invades to subjugate. If a man under a claim of divine dispensation refuse to pay for the dinner he has eaten, we cage him as a scoundrel, or as a lunatic. Yet the inhabitants of the Free States, if a man applied that doctrine to a government instead of a dinner, sent its professors to Congress as senators, and hailed its apostle as a Secretary of State. Some of the New England States always were and always continued to be strongly Federalist. There are no communities on earth more remarkable in most respects than they, but they do not understand the word liberty, except for themselves; they keep it for home use, and export Unionism like wooden clocks to impose on others. Massachusetts understood perfectly well that England had no right to legislate for her upon taxation, because she had not given the right; but she cannot understand that South Carolina should object to Massachusetts legislating for her upon a social question, because she has not given the right. Massachusetts affects the utmost willingness that South Carolina should make the same attempts upon her social system, and seems to feel that to be a compensation, forgetting that the plea of the Sodomite, that he did to others what he liked others to do to him, was never considered either a justification in law or ethics. Under the Constitution of the United States, Massachusetts may bake, boil, fry, roast, or stew any one within her limits for believing that two and two make four. She may make a State-religion, Romish, Episcopal, Unitarian, Manichean, or Mahomedan. She may have harems as thickly peopled as her mills. She may bury her dead, or burn her dead, or eat her dead, and so long as she performs her Federal duties to the general government and to her sister

States, these things are none of their business. Somehow or other she, and sometimes her Eastern sisters, cannot understand this, and persist in being the Mrs. Pardiggles of the Union, shoving tracts, obtruding advice, and assuming moral and intellectual superiority. Perhaps it is not given to social systems to develop the intense energy, the strong mental qualities of the Eastern people, and also that toleration which, content with not attending to the business of the universe, disclaims the general guardianship of humanity.

During the administration of Mr. Jefferson, the relations with England made an embargo seem advisable. Massachusetts contested its constitutionality before the proper tribunal. No man at that time had attained such constitutional acumen as to discover that the Supreme Court was not the appointed arbiter, nor that merchants and laborers are judges of *obiter dicta*. Before and during the war which followed, the interests of the Eastern States suffered, and they were naturally very restive. As the administration was Democratic, and knew that even for the best government on earth a man prefers to have some one else suffer than himself, it looked with proper indulgence upon their irritation, and though press, pulpit, Legislatures, and State officials, spoke and acted with a violence one-hundredth part of which, one year ago, would have put New York under martial law—it maintained unbroken and serene confidence and continued constitutional action.

The Federalists, as a party, disappeared after the war, not because they opposed it—for that would be to suppose the American mind weaker than it is—but because the conviction had become pretty general in most of the States, and was entertained in all, that they meant not to conduct a government, but to revolutionize a government.

Politics were very quiet till Missouri applied for admission. Then Federalism crept out to array section against section.

Imagination, said Napoleon, rules the world. Men in the Free States could not know the actual workings of the slave system in the Slave States, could not understand to what extent it was part of the social system, could not predict the possibilities of the future, in the relations of the races, if it were abolished by anything but the convictions of the white race; but just in proportion as they could know nothing, they were vio-

lent and assured. This was inevitable. In proportion as men know, they are moderate. Mathematicians and great lawyers do not get angry in argument; surgeons do not squabble about the proper mode of taking off a leg; but when two men discuss about religion, which is based upon pure faith, and upon which they can know nothing, they are ready in five minutes to cut each other's throats. All men would agree that slavery is not as good as freedom; all men would agree that man has a general duty to man; but when all these things were conceded, the question of the relations of a white citizen in New York to a white citizen in Virginia, which ought to have come first, was strangely forgotten. It seemed perfectly right that the Virginian should take the side of a New-Yorker against an Englishman or a Frenchman, or all the rest of the world, right or wrong; but when it came to the question of taking the side of the Virginian against the negro, the obligation disappeared.

Imagination acted, Reason was silent. All that could happen under the right of despotic power was assumed to be habitual. Men who had their children flogged at home, at school, in the army, in the navy, and in the merchant service, shuddered at the lash; men who saw portions of families coming in emigrant vessels by the thousand, mourned the separation of families; men who saw the streets of all great cities thronged with street-walkers, talked of the subjection of black women to the lust of their masters; and men who paid for a poor-house in every county, and knew that the mass of the working people in all Europe, and in parts of the United States, lived their lives from hand to mouth and laid up nothing, talked of unpaid labor. Nor would they reflect that they themselves lived under a bargain, that at the time the bargain was made all these things existed, and that twenty years of slave-trade were agreed upon to insure their continuance. The Free States virtually said to the Slave States—We are good, and you are bad. The right of censure only exists in a superior, the right of settling wrong and right only exists under the social compact; but the Free States assumed both. At the very moment, all their inhabitants would have jeered at a man who, taking his wife to keep house for pecuniary advantage with a man and his concubine, should claim the best cut of the jointly bought beef in virtue of the conjugal tie. Another

one-sided bargain prohibited the possibility of slavery on one side of a geographical line, and simply permitted its possibility on the other.

So the storm seemed spent; but Jefferson saw that it was merely lulled, and felt and wrote that all the sacrifices of '76 were in vain, and that self-government must perish.

The principle of limited government assumes that men know their own interest, as a general rule, better than any other men can know for them; that to protect the State and the individual from violence, and to keep the hands of men off the throats of others, and out of their pockets, is the perfection of government. The principle of unlimited government assumes that men do not, as a general rule, know what is best for them, and that they must be guided by that wisdom which the governors assume that they have. The misfortune of the first principle is, that it addresses itself simply to the sense of general good. The advantage of the other is, that it pays some with the money of others. The first fights with a militia, the other with a mercenary regular army. Among the attempts to establish an unlimited government was a system of internal improvements by which the whole resources of the States were to be abandoned to the federal government, and to be thrown into a general corruption fund. That notion had its day, but seems now to be consigned to the store-room where the follies of the past lumber space. The next phase was the so-called American system, by which government was to protect one species of labor by assessing a tax for it on another species of labor—to take one hour of Peter's work, who followed the plough, and give it to Paul who worked in iron. This system was warmly supported by the Free States, because an immense disproportion of the tax was levied on the Slave States and spent away from them. To the Slave States it made the Union what the absentee landlord is to Ireland. The protective system, like a horse-leech, at every session of Congress craved more. At last, South Carolina brought the question, not simply of justice, but of constitutionality, before the States in so solemn a manner, that men were obliged to pause and think.

The Constitution gives Congress power to raise a revenue for the purpose of paying the debt and providing for the expenses of the United States; revenue may be derived from duties; and

upon what articles duties shall be laid, and how far protection to the manufactures and products of the United States shall enter into those duties, is a matter of legislative discretion.

Therefore so long as the object of duties is revenue, and the incident is protection, the Constitution is observed ; but when the object is protection and the incident is revenue, even the dullest mind must perceive that the Constitution is not observed. Upon this matter the distinguished historian of the Dutch Republic, who worships "rights" in foreign states and deprecates them in American States, has written : "In regard to the dispute itself, there can be no doubt that the South was in the right and the North in the wrong. The production by an exaggerated tariff, of a revenue so much over and above the wants of government that it was at last divided among the several States, and foolishly squandered, was the most triumphant *reductio ad absurdum* that the South could have desired."

The question whether protection was the object, not the incident, could not be brought before the Supreme Court, because bills were entitled and purported to be bills for revenue, and the court could not go beyond the letter and the pretended object.

The case was identical with the ship-money of Charles I. The king had an undoubted prerogative to levy ship-money. The object of that prerogative was special and limited. By perverting ship-money into a general tax, he could dispense with a parliament, and be as absolute as Nero. Still, when the question came before a court of law, the only point would be, had the king such a prerogative ; and the answer must necessarily be in the affirmative. Courts can only deal with interpretations of the Constitution, not with perversions of it.

South Carolina attempted by nullification to keep in the Union, and bring the alleged perversion of power to the attention of the States.

The proclamation of Jackson, and the speeches of Webster, completely ignore the complaint of South Carolina. They both assume that the only question presented by her, was whether she could nullify a law completely freed from all constitutional objections, on the ground of its injury to her. Of course their argument was both triumphant and overwhelming, as all argu-

ments are when men assume a conclusion as a premise. But the passage of a compromise act gradually reducing the rate, showed conclusively what the conscience of the Free States knew. Whether a tariff for protection is constitutional, could easily have been settled by the passage of two bills—one providing a percentage for revenue, and another a percentage for protection. The latter could have been passed upon by the Supreme Court, but dignity did not admit of such a simple solution of a difficulty. The real dispute between South Carolina and the protectionists was, whether the forms could control the spirit of the Constitution. If they could, despotism was attained and its battle won without a blow. That time the American mind decided in favor of honesty.

The next grave question which evoked the spirit of the old Federalists and promised the hope of power, was the Territorial question. All land acquired by the Federal government is the joint property of all the States. Should the majority section use it to the injury of the minority section? In '48 the Slave States offered to divide it equitably, or to submit the extent of Federal power on the subject, to the Supreme Court. Both were refused. The Missouri lesson had been too well studied. It was perfectly evident if slavery could be kept within Federal politics, a sectional contest could be maintained, from which, as a necessary result, an unlimited government might be predicted with the same certainty as the recurrence of the seasons. The agitation had grown dangerous, when a very simple and happy method of settlement was suggested. Let the Territories settle the question for themselves and decide when they form their Constitution, whether they will be slave or free. It appeared to be acquiesced in, but the hope was illusive; men affected to discover that the Territorial government, which is an agent of the Federal government, could decide, whether there was property in slaves—a power denied to the Union—thus transferring to Federal politics again the question of slavery. By this time the subject had reached the Supreme Court; that tribunal decided, what every unbiassed tribunal had decided and must decide, that the power to make citizens of the United States applied only to individuals who at the adoption of that Constitution were foreigners, subjects of another body politic; that the Constitution recognised property

in slaves, and that in the eyes of the Federal government it was just the same as any other property.

There was nothing novel in either of those propositions. Nothing which had not been decided by other tribunals before, and which must be plain to any man who knew anything of the history of the Union. There was not any man, abolitionist or otherwise, who did not know that the Federal government had no authority direct or indirect over slavery, and that the extent of authority over the Territories was a purely judicial question, upon which the Supreme Court had often passed years before.

When therefore a party was formed and attained power in every Free State except New Jersey, with one single element of life, abolitionism, and with one simple object, to exclude slavery from the Territories, as an indirect method of acting on it in the States, the Free States declared in a manner scarcely to be mistaken, that they were not bound by the burden, and yet claimed the advantages of the Union, that they rejected the authority of the judiciary, which is the protection of the weak.

They trod backwards, from civilization to barbarism; from the law of bargain, to the law of force. If to resist a law of the United States by numbers assembling and overawing the peaceable and obedient, be, as it has been judicially declared, technical actual treason; what is the moral guilt of that act which permits the ballot-box to overthrow the Constitution by making the judiciary a nullity?

What is the blackness of the crime against liberty, of those who have demonstrated, that one "experiment of how much of it men could bear," is a failure?

So long as the policy of the Free States was domestic, it was possible not to see it, and to hope for a return of sanity; but when by a Federal act, the casting of their electoral votes for a President, they proclaimed their determination to construe the Constitution, there was only the choice between what the Americans of 1776 called slavery, or secession. Eleven of the Slave States acted on the principles and followed the example of Washington, Jefferson, and Adams. Three submitted, and have suffered equally the degradation and spoliation of conquest. It remains to be seen whether, like the horse in the fable, the Free States, in their passion to destroy the liberty, and trample on the rights of the Slave States, have not lost their own.

It they have not, it is because the mercy of God is greater than His justice. When He created man, He made general laws of being, and under those laws all human actions have their necessary consequences. As He has ceased, for the last few years at least, to work miracles, it is probably impossible for the Free States to escape the natural results of their own doings and the application of their own principles.

Men who have denied that "Property is what the law makes property," * and have insisted that property is what the A's and B's of a Union think ought to be property, will find that their own throats may be cut by the sword with which they have cut the throats of others. Practical confiscation has been worked North as well as South, to satisfy moral theorists, and the injured bide their time. That Nemesis "which never yet of human wrong, left the unbalanced scale" has its judgments in store. Nor will this be revenge; it will be pure justice. Justice would be defrauded if men, who in the exercise of as pure and unadulterated self-will as the story of mankind exhibits, were to be allowed to strut as patriots, to be honored as philanthropists, and to live out what is left of their existence in the broad phylacteries of the Pharisees, and in the enjoyment of contempt for publicans and sinners.

For the first time in our politics, personal wrongs to citizens both North and South have been added to difference of opinion; and men must feel in both sections that hereafter they have not merely opponents, but enemies.

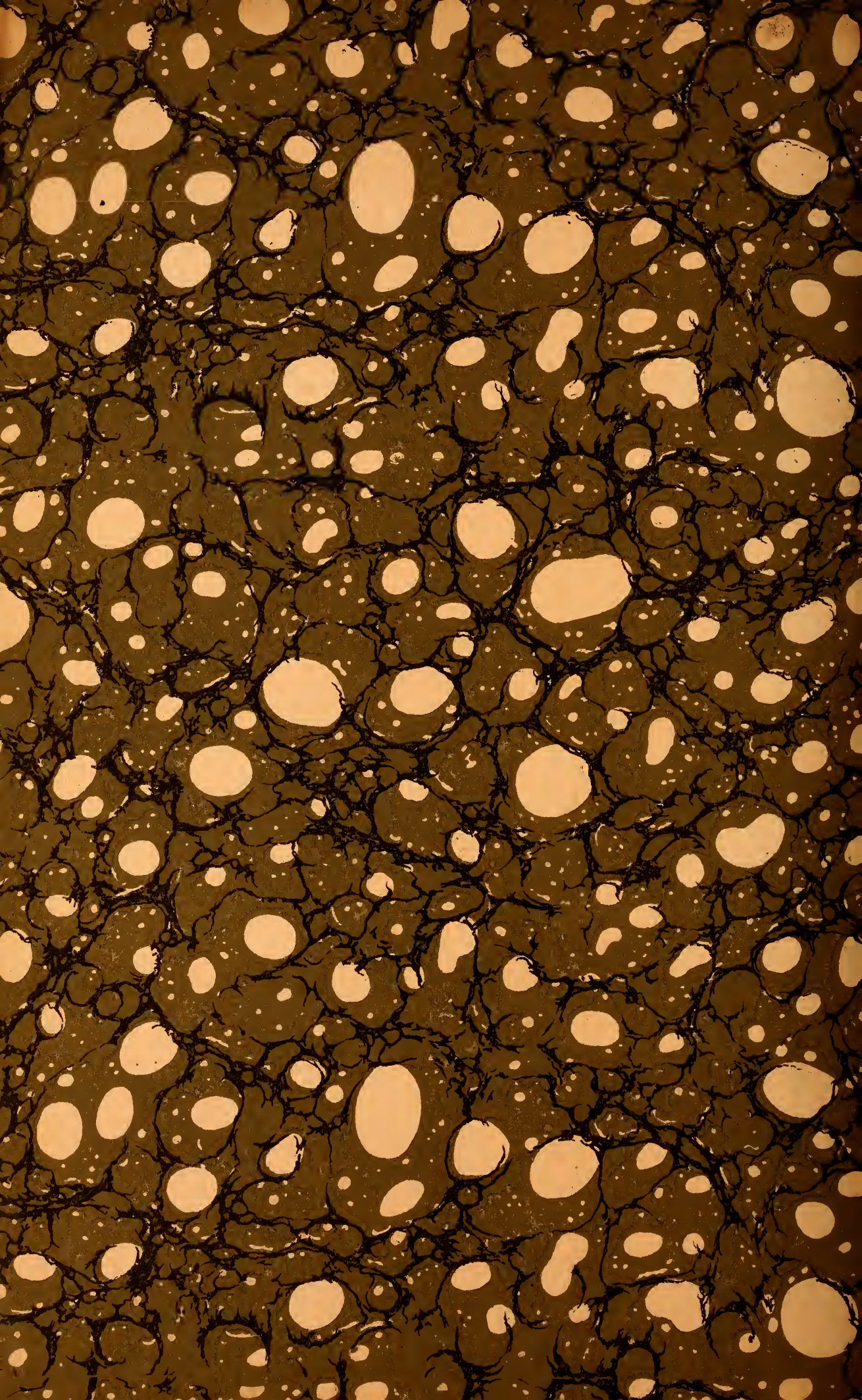
History is full of the struggles of communities to be free, to enlarge the bounds of their own liberty. It was reserved for the nineteenth century to exhibit States shedding the blood, and burthening the industry of their citizens, to abridge their power and abjure their rights. Many States have nobly struggled to preserve their autonomy, many districts of country have fought for years to become sovereignties instead of provinces, but never before have sovereignties bled themselves to fainting, to become provinces.

The principle of the Union is no longer justice, but force; and men will consequently only look hereafter, where strength resides, not right. What will follow is written in many a history. The vast extent of unoccupied land which has hith-

erto been a great safety-valve, will act for some time still, as such ; but a more dangerous object of sectionalism than negro slavery has been created, in which the proportion of four to one between the combatants will not exist, but upon which, with more equal forces, the old enemies, liberty and despotism, will again contend.



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